

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Case No. 1:08-cv-4040
)	Case No. 1:08-cv-4228
Resource Technology Corporation,)	
)	Appeal from Bankr. Case
Debtor.)	No. 99 B 35434

MOTION TO CONSOLIDATE RELATED ACTIONS

Jay A. Steinberg, not individually but solely as Chapter 7 Trustee (the “Chapter 7 Trustee”) for the Estate of Resource Technology Corporation (the “Estate”), by and through his counsel, moves this Court pursuant to Rule 42(a) of the Federal Rules of Civil Procedure to consolidate the above-captioned cases. In support of his motion, the Chapter 7 Trustee states:

1. These actions come before the Court in connection with an appeal from a Chapter 7 bankruptcy proceeding pending in the United States Bankruptcy Court for the Northern District of Illinois, captioned *In re: Resources Technology Corporation*, Case No. 99 B 35434 (the “Bankruptcy Proceeding”). The actions have been docketed as Case Nos. 1:08-cv-4040 and 1:08-cv-4228 (the “Chiplease Actions”).

2. The appellant in the Chiplease Actions is Chiplease, Inc. (“Chiplease”).

3. The Chiplease Actions both pertain to the same appeal of the same Order on Chapter 7 Administrative Claimant’s Motion for Entry of Order Requiring Chiplease, Inc. to Post Security (the “Security Order”), entered by the Bankruptcy Court on June 25, 2008, granting in part and denying in part the Chapter 7 Administrative Claimant’s Motion for Entry of Order Requiring Chiplease, Inc. to Post Security.

4. Chiplease filed its Notice of Appeal from the Security Order on July 1, 2008. On July 25, 2008, the Bankruptcy Court transmitted the record on appeal to this Court, and the appeal was assigned Case Number 1:08-cv-4228.

5. Prior to the docketing of its appeal, on July 16, 2008, Chiplease filed its Emergency Motion for Limited Stay Pending Appeal of Bankruptcy Court Order (the “Motion to Stay”), seeking a stay of the Security Order pending the resolution of its appeal. The Motion to Stay was assigned a separate Case Number, 1:08-cv-4040.

6. Both of the Chiplease Actions have been assigned to the Honorable Matthew F. Kennelly.

7. Both of the Chiplease Actions involve two different facets of the same essential question: Whether the Bankruptcy Court correctly ordered Chiplease to post security in the amount of \$500,000 into an escrow account, pursuant to a Settlement Agreement approved by the Bankruptcy Court on March 16, 2006. Case Number 1:08-cv-4228 will determine through appellate review whether the Bankruptcy Court properly entered the Security Order, whereas Case Number 1:08-cv-4040 addresses whether Chiplease can satisfy the elements necessary to obtain a stay of the Security Order while Case Number 1:08-cv-4228 is pending.

8. Rule 42(a) of the Federal Rules of Civil Procedure provides, in relevant part: “**(a) Consolidation.** If actions before the court involve a common question of law or fact, the court may: * * * (2) consolidate the actions[.]”

9. The Chiplease Actions involve common questions of law and fact. Both relate to the same Security Order of the Bankruptcy Court, both require an examination of the merits of the Security Order, and both involve common issues of law and fact regarding whether the Bankruptcy Court erred in its decision that the evidence showed a failure on the part of Chiplease

to comply with the terms of the Settlement Agreement by failing previously to deposit \$500,000 to an escrow account.

10. In light of the complete overlap of issues of law and fact involved in the Chiplease Actions, the actions should be consolidated into a single proceeding in accordance with Rule 42(a).

WHEREFORE, Jay A. Steinberg, not individually but solely as Chapter 7 Trustee, respectfully requests that this Court enter an Order: (1) consolidating the Chiplease Actions; and (2) granting such other and further relief as the Court deems necessary and appropriate. A proposed Order is included with this Motion as **Exhibit 1**.

Dated: July 28, 2008

**Jay A. Steinberg, not individually but
solely as Chapter 7 Trustee for
Resource Technology Corporation**

By: /s Gregory E. Ostfeld

James G. Richmond
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Exhibit 1

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)	Case No. 1:08-cv-4228
Resource Technology Corporation,)	
)	Appeal from Bankr. Case
Debtor.)	No. 99 B 35434

ORDER

This matter coming on the Chapter 7 Trustee's Motion to Consolidate Related Actions, IT IS HEREBY ORDERED:

1. The Court GRANTS the Motion to Consolidate Related Actions.
2. Case Numbers 1:08-cv-4040 and 1:08-cv-4228 are hereby consolidated in accordance with Rule 42(a) of the Federal Rules of Civil Procedure.

Dated: July ___, 2008

Judge Presiding